

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY  
MINUTES OF A PUBLIC HEARING**

DATE ..... May 28, 2003  
TIME ..... 7:00 P.M.  
PLACE ..... CO. OFFICE BLDG.  
20 N. 3<sup>RD</sup> STREET  
LAFAYETTE IN 47901

**MEMBERS PRESENT**

Jean Hall  
Mark Hermodson  
Edward Weast  
Steve Clevenger  
Bruce Junius  
Gary Schroeder

**MEMBERS ABSENT**

Ralph Webb

**STAFF PRESENT**

James Hawley  
Sallie Fahey  
Krista Trout  
Jay Seeger, Atty.  
Michelle D'Andrea

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 28<sup>th</sup> day of May 2003, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Mark Hermodson called the meeting to order.

**I. APPROVAL OF MINUTES**

Steve Clevenger moved to approve the minutes of the April 23, 2003 public hearing. Edward Weast seconded and the motion was carried by voice vote.

**II. NEW BUSINESS**

Sallie Fahey informed the Board that a new agenda was handed out. She stated that **BZA-1632—JAY JOLLEY/SIGNMAN INC** has been withdrawn by the petitioner; **BZA-1634—HAWKINS OUTDOOR** needed to be continued to the June 25, 2003 meeting due to a lack of sign posting and **BZA-1640—REGINALD I. & LAURA J. ROY** has requested a continuance to the June 25, 2003 meeting.

**III. PUBLIC HEARING**

Steve Clevenger moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the application to be heard this evening and responses from the checkpoint agencies. Edward Weast seconded and the motion carried by voice vote.

Mark Hermodson read the meeting procedures.

Steve Clevenger moved to continue **BZA-1634—HAWKINS OUTDOOR** and **BZA-1640—REGINALD I. & LAURA J. ROY** to the June 25, 2003 Area Board of Zoning Appeals meeting. Edward Weast seconded and the motion carried by voice vote.

1. **BZA-1635—BURTON & MELINDA ETCHISON:** Petitioners are seeking a special exception to allow a bed and breakfast (SIC 7011) with four guest rooms in the R2U zone, operating 24 hours a day, 6 to 7 days a week as requested by guests, on property located at 1219 Main St., in the City of Lafayette, Fairfield 21(SW)23-4. CONTINUED FROM THE MAY MEETING BECAUSE OF LACK OF PROPER PROOF OF PUBLICATION.

Steve Clevenger moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Krista Trout presented slides of the zoning map, aerial, site plan, parking detail plan and 6 photographs. She read the staff report with recommendation of approval.

Melinda Etchison, 8217 W. 300 N, Williamsport, IN 47993, concurred with the staff report. She stated that she was available to answer any questions.

Jean Hall asked for clarification on what specific days the facility would be operating. He asked if there was a legal directive that requires that specific wording.

Melinda Etchison stated that because this will also be their residence, they do not want to operate 7 days a week, but would need permission for all 7 days in order to accommodate customer needs.

Jean Hall asked if amending the petition to simply 7 days would be permissible.

Sallie Fahey stated that it would have to be at the petitioner's request.

Mark Hermodson asked Melinda Etchison if she would like the Board to amend the petition.

Melinda Etchison replied affirmatively.

Jean Hall moved to amend the petition to include the wording "any day of the week". Steve Clevenger seconded and the motion carried by voice vote.

The Board voted by ballot 6 to grant -0 to deny thus approving **BZA-1635—BURTON & MELINDA ETCHISON.**

2. **BZA-1636—ZANIK CORPORATION:** Petitioner is seeking a special exception to allow a facility to board and train horses and services incidental to such use (SIC 0752) in the AA zone, operating 7 days a week from dawn to dusk for training and 24 hours a day for boarding, on property located at 4000 E CR 900 S, Lauramie 1(SW)21-4. (UZO 3-2)

Steve Clevenger moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Krista Trout presented slides of the zoning map, aerial, site plan, building elevations and 3 photographs. She read the staff report with recommendation of approval.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, stated that the petitioner was also present. He presented pictures of the building that is currently on the site. He said that it was built in 1943, restored and relocated. He informed the Board that they have been to the NRCS and a letter from them is on file. He stated that they have started a water management program and put in grassed waterways and subsurface drainage tiles in order to control the damage that has been occurring to this land. He said that this piece of land is tired and will be restored with no crops. He referred to the ballot items and stated that this was proper request. He pointed out that the staff report states that all the requirements of the ordinance could be easily met. He said that the lighting would be security lighting and typical of farms. He stated that the noise would be similar to any farm with livestock. He mentioned that the hours of operation would be from dawn to dusk, 7 days a week. He explained that horses would be kept on site 24 hours a day and owners might be picking or dropping off at all hours of the day and night. He requested approval.

Lynda Phebus, 3838 East 900 South, Lafayette, IN, stated that she was adjacent to this property and had some concerns regarding the drainage and stall cleaning. She said that her property has a lot of water run off to begin with, and since she is on the lower side of this property, she is concerned that the waste would run off into the ditch behind her house.

Joseph T. Bumbleburg stated that the waterways that have already been constructed were done so specifically to improve and control the water quality and drainage of this property across the neighbors. He

explained that the petitioner also owns a large piece of land across the street; therefore waste from the stalls can be adequately taken care of on his own land.

Bruce Junius asked if the Zanic Corporation was a for profit business.

Joseph T. Bumbleburg stated that it is a profit corporation.

Bruce Junius explained that he wanted to know if this was a business or a large hobby. He asked if there would ever be horse shows on this property because it is so big.

Krista Trout stated that horse shows would fall under a different SIC code.

Jean Hall asked for confirmation that the waste would be distributed onto the adjacent property owned by the petitioner.

Joseph T. Bumbleburg confirmed that the waste would be distributed on the property of the petitioner.

Jean Hall asked for clarification on the hours of operation. He asked if there was a legal description of dawn to dusk.

Jay Seeger responded that the term dawn to dusk was meant to include daylight hours, sundown to sun-up.

Jean Hall asked for elaboration on incidental services. He mentioned that veterinary services could be 24 hours a day. He pointed out that people boarding horses could be at the facility riding their horses 24 hours a day.

Jay Seeger stated that incidental services are limited to the boarding operations.

Jean Hall mentioned that the wording indicates that riding horses that are boarder's is an incidental service and therefore allowed 24 hours a day. He commented that non-boarded horses are included under SIC 7999.

Jay Seeger responded affirmatively.

Jean Hall asked if a boarded horse could be ridden 24 hours a day.

Jay Seeger responded affirmatively.

Jean Hall asked if any one wanted to address that issue now that it has been clarified.

Mark Hermodson asked the audience if there were any further concerns or comments.

There were no responses.

The Board voted by ballot 6 to grant –0 to deny thus approving **BZA-1636—ZANIK CORPORATION.**

3. **BZA-1637—MICHAEL & PAMELA BOWEN:** Petitioners are seeking a special exception to allow a horse riding stable with lessons and day camps (SIC 7999-Riding Stables) in the AW zone, providing riding lessons Monday through Friday from 3pm until 7pm and Saturday from 8am until noon and summer camps operating for 8 weeks during the summer Monday through Friday from 9am until 3pm, on property located at 6830 SR 25 S, Wayne 26(SE)22-6. (UZO 3-2) WITH CONDITION.

Steve Clevenger moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Krista Trout presented slides of the zoning map, aerial, site plan and 4 photographs. She read the staff report with recommendation of conditional approval based on the following condition:

INDOT must provide a letter stating the existing drive is adequate or issue a permit to do necessary improvements to the drive before riding lessons and day camps are offered.

She read a letter into the record from Ron Byrd, Regulatory Investigator, INDOT Crawfordsville District, stating there was no objection to the existing drive. She stated that staff recommends that the condition be left in the report and reflect that the condition has been met in the letter of disposition.

She read the following letters in favor of the request into the record:

Princess Wolf, 2829 Plaza Lane, Lafayette, IN.

Caitlin Cicholske, 2212 Sunrise Ave, Lafayette, IN.

Mike and Barb Cicholski, 2212 Sunrise Ave, Lafayette, IN.

Madison Smith, PO Box 171, West Point, IN.

Lee Ann Bane-Smith, 780 E. U.S. Highway 136, Veedersburg, IN.

Stanley and Linda McKinley, 8430 West 700 South, West Point, IN.

Pamela Bowen, 6830 State Road 25 South, West Point, IN, stated that she was a certified riding instructor with the American Riding Association of America and a certified in stable management. She explained that the current zoning allowed stable boarding and training and was seeking the special exception to allow teaching. She said that the business was started in 1998 and she was requesting the special exception in order to continue to give riding lessons to children and adults. She informed the Board that the mission statement of the business is "Our goal is to teach the fundamentals of riding and horsemanship in a safe and pleasant environment." She explained that safety has always been their first concern. She said that children that live in the city would not have the opportunity to work around horses, groom, saddle and ride if not for this facility. She stated that the facility provides educational programs not found elsewhere. She said that the business started out as a summer camp and has grown into a fall after school program as well. She stated that the new arena would provide space to both teach and ride, 7 months out of the year. She informed the Board that the Saturday classes were held from 8 a.m. to Noon with mini horse shows a few times a year. She stated that the facility has always been completely fenced in to protect students, neighbors, local traffic and the horses. She said that it is their intention to maintain good neighbor relationships and hopes to resolve any concerns. She asked for approval.

Shauna Duncan, 2410 Happy Hollow Road, West Lafayette, IN, stated that she is a PhD student at Purdue and one of the instructors at the facility. She informed the Board that she has been riding horses since she was a child and her first lessons were at a similar facility in Fort Wayne, IN. She stated that she has been all over the nation, seen all kinds of facilities and the Bowen's facility is really fantastic. She explained that the program helps the children to grow, learn discipline, make friends and is very unique. She stated that there is a very diverse group of individuals that attend the facility's programs, which helps to grow communication skills, and lift language barriers.

Tracey Wolf, 6829 State Road 25 South, West Point, IN, stated that he lived directly across the road from this facility and has always enjoyed having the Bowen's as neighbors. He said that he thought that this was a good operation and was in support of keeping the operation going.

Bonnie Trombello, 1808 Platte Drive, Lafayette, IN, stated that the Bowens have offered an opportunity for a lot of children. She explained that the term "hippnotherapy" meant to use horses as a means of helping people. She stated that the Bowens provide this in a safe and reasonable fashion. She stated that safety is a concern to her because she is a registered nurse.

James Wilson, 6414 Moonlight Lane, West Point, IN, presented handouts to the Board. He stated that his property was adjacent to the Bowen's on the west side. He explained where his house and the neighbor's house were located on the handout. He pointed out that the site plan shows the new arena located 120-feet from the fence, and in actuality it is only 40-50 feet from the fence. He stated that his primary concern was

that there is no visual barrier between his home and the new arena. He explained that there used to be a row of various trees along the fence, but that the activity and eating habits of the horses have destroyed the visual barrier. He referenced one of the pictures in the handout, which shows the damage that is being done to the trees. He stated that even though the noise is typical of an agricultural environment, it is noise that they are not used to having. He informed the Board that the facility operates from 9 am to 7 pm. He pointed out that the time of day that they would be outside corresponds to the facility's hours of operation. He pointed out that there is no vegetation or grass along the fence where the horses congregate, which creates dust or mud. He mentioned that since there is no protection for the trees, the continued abuse by the horses will eventually kill all of the trees. He requested that the Board place some restrictions on the variance. He pointed out that if this were a business zone, there would be bufferyards required between his residence and the facility. He asked for consideration that vegetation and buffers be placed there. He stated that he was concerned that additional noise, such as loudspeakers, would be allowed if the variance is granted.

Pamela Bowen stated that she would be very willing to work with James Wilson on the area he was referring to. She said that she would be happy to plant a visual barrier. She confirmed that the horses have destroyed a large part of the area. She explained that the new construction has forced them to alter the pasture areas, and the grazing area would be in a different location. She stated that once the construction is complete, half of the property would be restored. She informed the Board that a lot of the trees that used to be along the fence were relocated to other areas 2 years ago. She stressed that no trees were destroyed or cut down. She stated that she is a former landscape designer and would not allow trees to be destroyed. She reiterated that she would be willing to work with the Wilson's and plant a visual barrier on the Wilson's side of the fence. She stated that she could also install a hot wire to protect the new growth.

Jean Hall asked for elaboration on the mini shows.

Pamela Bowen stated that mini shows consist of 2 hours on Saturday or Sunday, used as a family day.

Jean Hall asked how many people were typically in attendance.

Pamela Bowen stated that there was approximately 10 children plus their parents at these shows.

Jean Hall asked how many horses they plan to have on site, at any given time.

Pamela Bowen stated that they have maintained between 10-12 horses for the last 3 years. She said that they have stalls for up to 16, and would never be over that number.

Mark Hermodson clarified that the request was for a special exception and not a variance, as James Wilson had indicated. He explained that a special exception is a legal use within the zone, but must be approved because it has potential to impact the neighbors. He reiterated that it is not a variance.

The Board voted by ballot 6 to grant -0 to deny thus approving **BZA-1637—MICHAEL & PAMELA BOWEN.**

4. **BZA-1638—WAL-MART REAL ESTATE BUSINESS TRUST:** Petitioner is seeking a variance to allow .9 parking spaces per 200 sq. ft. of gross floor area instead of the required 1 space per 200 sq. ft. of gross floor area (parking group 8) for a store expansion, on property located at 2801 Northwestern Ave., West Lafayette, Wabash 12(NE & SE)23-5. (UZO 4-6-3).

Steve Clevenger moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Sallie Fahey presented slides of the zoning map, aerial, site plan and 7 photographs. She read the staff report with recommendation of approval.

Dan Teder, PO Box 280, Lafayette, IN, representing the petitioner, presented a display board of the site plan. He introduced several members of the Wal-mart team that were present. He stated that they are

requesting a parking variance for .9 spaces per 200 square feet, instead of the required 1.0 space. He informed the Board that the current building was 120,000 square feet and the new building will be 205,578 square feet. He stated that the current parking lot holds 749 spaces and the new parking lot will hold 925 spaces. He mentioned that the bog on the west side will be impacted at approximately 1%. He explained that they would mitigate that by purchasing 10 acres to the south, which will eventually be given over to the City of West Lafayette. He stated that out of the 10 acres purchased, 4 acres will be preserved as wetland, 4 acres will be turned into wetlands, 1 acre in the existing wetlands will be enhanced and 1 acre will be a prairie bufferyard. He stressed that the 10 acres he is referring to is developable ground. He referred to the display board to show an example of how the landscape will fall when the green space requirement is met. He pointed out that the ordinances for signs, greenspace and bicycles will all be met. He stressed that the petitioner has spent a lot of time redesigning the store so that it would not have any impact on the bog. He stated some examples of the efforts that have been made: lessening the truck parking; angling the receiving docks; not allowing additional expansion by turning 10 acres over to the City; mechanical equipment will be placed on the roof; adding a multi use pedestrian and bike trail; safety lighting will be restricted; color scheme will be muted; piping will be colored to blend in; at least 100 trees will be planted and a buffer between the parking lot and bog will be established. He said that the statute has been satisfied. He concurred with the staff report and stated that more parking is not necessary and can damage the bog. He asked for approval.

Mike Woernle, 6640 Parkdale Place Suite 2, Indianapolis, IN, stated that he was a botanist contracted by Wal-mart to assist with the ecological issues. He presented several display boards. He pointed out and explained the impact area and mitigation area. He mentioned that this plan is currently under review by the Indiana Department of Environmental Management, Indiana Department of Natural Resources and the U.S. Fish and Wildlife. He informed the Board that permit applications have been submitted and the public notice period has expired. He said that they were not anticipating a public hearing on the wetlands. He stated that they expected to obtain a wetlands permit from both the State and Federal agencies.

Bob Bauman, 609 West Navaho Drive, West Lafayette, IN, stated that he was the attorney for the City of West Lafayette and the City has worked closely with Wal-mart on several aspects of the project including; the multi-purpose trail, the architecture of the building, lighting, the water quality and parking lot. He mentioned that Wal-mart will do continuing water quality monitoring. He pointed out that the West Lafayette Landscape Ordinance has helped to enhance the look and feel of the parking lot. He mentioned that as the trees mature, there will be substantial coverage of the entire parking lot. He stated that the City was happy that Wal-mart was willing to work with them on this project. He said that it is consistent with the current planning trend that too much parking is just as big a problem as too little. He reiterated that the City of West Lafayette is supporting this variance.

Mark Hermodson commented that the Ordinance Committee really should start looking at large parking areas. He stated that all the acres of asphalt are a waste and a pollution problem.

James Hawley suggested that the ordinance allow less parking and 20% green space, instead of 10%.

Bruce Junius agreed with Mark Hermodson's statement. He stated that he was impressed that trees were able to be worked in. He asked if parking spaces were deleted with the addition of trees.

Bob Bauman replied affirmatively. He pointed out that each of the trees was on an island. He reiterated that the islands and trees significantly reduce the maximum number of spaces that could have been allowed. He pointed out that the City of West Lafayette does require 20% greenspace and Wal-mart has worked hard to fulfill that requirement.

Bruce Junius asked that if trees were put into other parking lots, it would reduce the parking by 20%.

Bob Bauman stated that it might not actually be 20%, but it would be a significant number.

Bruce Junius asked if the parking requirements were the same for a small shopping center.

Sallie Fahey replied affirmatively. She stated that there may be a small change in scale.

Jean Hall asked what the expected life of the trees was. He pointed out that as the trees grow, the roots would damage the pavement. He asked how long it would be before the trees would have to be replaced.

Kevin Parsons, 2212 West 10<sup>th</sup> Street, Indianapolis, IN, stated that it would be about a 50-year cycle. He mentioned that normally these trees would have a life expectancy of 100 years, but the pavement and pollution diminish that.

Jean Hall mentioned that as the tree roots expand, it would not be able to get the proper nutrients and water.

Kevin Parsons stated that statement was true. He pointed out that the trees were placed on a long strip of greenspace in order to increase the space from which they receive water.

Jean Hall asked what the life expectancy of those trees was, under those conditions.

Kevin Parsons stated that it would still be approximately a 50-year cycle.

Steve Clevenger asked if a parking study has ever been conducted at this location.

Daniel Teder stated negatively. He stated that based on observation alone, it is never fully utilized.

The Board voted by ballot 6 to grant -0 to deny thus approving **BZA-1638—WAL-MART REAL ESTATE BUSINESS TRUST.**

5. **BZA-1639—GREGORY A. JACOBS:** Petitioner is seeking a variance to allow a 5' wide bufferyard with 1.5 standard plant units per 150' of length instead of the required "Type C" bufferyard that is 20' wide with 4 standard plant units per 150' of length between GB and R1 zoning, on property located at 3005 SR 25 N, Fairfield 2(SW)23-4. (UZO4-9-3(a))

Steve Clevenger moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Sallie Fahey presented slides of the zoning map, aerial, site plan and 6 photographs. She read the staff report with recommendation of denial.

She read into the record the following letter, in favor of the petition:

Leland and Dorothy Fuller, 3420 300 North, Lafayette, IN, who are the next-door neighbors.

Greg Jacobs, 109 Holden Drive, Brookston, IN, presented a handout to the Board. He stated that when this project began, they attempted to meet all of the setbacks and requirements. He said that one of the biggest concerns that needed to be met, was the safety issue of the ingress-egress to the Family Pantry store. He referred to the site plan and pointed out where the largest amount of traffic congestion occurs. He informed the Board that before this petition was filed, he met with the Fullers to discuss the issue. He explained that in 1991 he was granted a setback variance that would have allowed him another design, but he chose this design because it had the support of the Fullers and it accommodated the ingress-egress to the Family Pantry. He said that the alternate design would cause cross traffic flow and even more congestion. He reviewed the current flow of traffic and explained the use of the clockwise rotation. He explained that he wanted to provide for maximum traffic stacking. He stated that he spoke to the Fullers regarding the addition of a security fence and the Fullers were opposed to that and were opposed to that in 1991. He said that the lights will hit the 2-car garage and the Fullers are not concerned about that. He pointed out that in addition to the buffer zone there is extensive landscaping. He said that they sought out the quietest model of dryers, which is also the most expensive. He presented engineering reports on decibel testing, which explained that

OSHA allowed workers to be around these dryers without the use of earplugs. He stated that noise is projected out about 20 feet.

Patricia Battering, 3020 North 350 East, Lafayette, IN, stated that this property was on a septic tank and asked how that would be affected by this addition. She said that she lives nearby on 25 North and she asked where all the run off water will go.

Mark Hermodson stated that they would ask that question.

Henry Battering, 3020 North 350 East, Lafayette, IN, stated that that they also own the property at 3012 North 350 East. He said that there is no drainage in that area and he wanted to know where all the water would go. He informed the Board that in 1991 there was supposed to be a bufferyard put in the back of his house. He stated that they only put in a pile of dirt with some grass seed. He said that the gas station was very noisy. He mentioned that there was a shed that was supposed to be torn down in 1991. He stated that they always hear what he is going to do, but it never gets done. He pointed out that the car wash idea was denied in 1991.

Greg Jacobs stated that there is a 30-foot buffer strip that separates the Batterings property. He said that in 1991 there was no landscaping requirement. He stated that the dirt mound is a grass berm that is part of the emergency routing system for the drainage. He mentioned that he did not know what sheds were supposed to have been torn down. He informed the Board that they are using a special closed loop system for drainage because it is not permissible to drain a car wash into a septic system. He mentioned that this system has a proven track record and is used by the government. He said that they would have a large detention tank and an oil/water separator. He stated that they contract with Certified Environmental Services for the pit maintenance and disposing of non-reclaimable water. He pointed out that all of this water is biodegradable.

Jean Hall stated that the Board has reviewed this corner and the traffic flow before. He asked if a car wash was a reasonable business for this corner, property and traffic.

Sallie Fahey stated that most of the truck traffic from the facility down the road would bunch up at certain times of the day. She pointed out that because a traffic light is present, once 300 clears the turn should be manageable. She commented that the concern was not just for the Fullers, but for who ever owns the property after them. She said that in regards to their request of shrubbery placement, the ordinance does not specify any order of planting. She explained that would allow them to plant it in any order. She informed the Board that they have a letter from the County Health Department which states that this would be a self contained unit with no discharge or wastewater and no approval was necessary from their office.

Mark Hermodson pointed out that they were voting on a bufferyard only.

The Board voted by ballot 0 to grant – 6 to deny thus denying **BZA-1639—GREGORY A. JACOBS.**

Mark Hermodson stated that unless any member has an objection, the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

#### **IV. ADMINISTRATIVE MATTERS**

Sallie Fahey stated that when preparing the cases involving horses, the issue of manure management was discussed. She mentioned that if any more of these cases arise, they would attach conditions so that flies do not bother the neighbors. She said the APA would be sending a copy of the parking report and she hoped to receive it in the next 2-3 weeks. She mentioned that the Ordinance Committee would be taking a closer look at that issue. She commented that the staff was in support of an ordinance that would more closely match parking need without going overboard.



Jean Hall mentioned that at last months meeting, it was mentioned that the Board members were to be added to the mailing list for the search for the new Executive Director. He stated that there have been two meetings on that subject and he has not received anything nor have several other members.

James Hawley stated that was an omission and unintentional.

Jean Hall asked if there were going to be more meetings on that subject.

James Hawley replied negatively. He stated that he could provide copies of what was discussed, including the revised job description. He reiterated that it was an unintentional omission.

## **V. ADJOURNMENT**

Steve Clevenger moved to adjourn the meeting. Edward Weast seconded and the motion carried by voice vote.

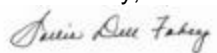
The meeting adjourned at 9:25 P.M.

Respectfully submitted,



Michelle D'Andrea  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Assistant Director